Supreme Court, U.S.
FILED

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NO._____

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1996

LARRY K. WILLIS
Petitioner

V.

SHELBY COUNTY TENNESSEE, INFORMATION TECHNOLOGY
WILLIAM N. MORRIS, JR.
RICHARD SWIGGART
HENRY MARMON
JOSEPH JACKSON, et al.
Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT
MERRITT, CHIEF JUDGE; KENNEDY, CIRCUIT JUDGE; AND JOINER, DISTRICT JUDGE
CASE NUMBER 95-5107

PETITION FOR A WRIT OF CERTIORARI

LARRY K.WILLIS
IN PROPRIA PERSONA
3354 FAIRBANKS ST.
MEMPHIS, TN. 38128

23 pp

QUESTIONS PRESENTED

1. This Court should grant this Petition to resolve a conflict between the Circuit Courts, and a conflict arising under the Constitution and the Laws of the United States, a clearly established Congressional Law.

2. This Court should grant this Petition to resolve a conflict between Legislative Law and the Constitution of the United States.

3. This Court should grant this Petition as Title 42 U.S.C. @ 1983 guarantees a person's rights to sue there under, if any person violates my Constitutional Rights, and/or Civil Rights.

4. This Court should grant this Petition to resolve a conflict between the Circuit Courts and the Federal Rules of Civil Procedure, Rule 12(a), Defaults.

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NO._____

IN THE SUPREME COURT
OF THE
UNITED STATES OF AMERICA

OCTOBER TERM, 1996

LARRY K. WILLIS, Petitioner,

VS.

SHELBY COUNTY TENNESSEE, INFORMATION TECHNOLOGY, et al., Defendants.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Petitioner, LARRY K. WILLIS, in Propria Persona, respectfully requests that a Writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Sixth Circuit regarding its decision whereby it upheld the United States District

Court's Order of Dismissals as to Title VII of the Civil Rights Act, 42 U.S.C. @ 2000e et seq., Title 42 U.S.C. @ 1983 and the setting aside of Default Judgment against the Defendants, so Ordered the 18th day of October, 1995, see Appendix 13a, and its mandate of the 9th day of November, 1995, see Appendix 18a.

OPINIONS BELOW

The unpublished written Orders of the United States District Court, Western District of Tennessee, Western Division wherein the Trial Court's Order of Dismissal and Order Granting Defendants' Motion to Strike references to Settlement Negotiations, trial docket no. 38 and Order Granting Defendants' Motion to set aside Default, trial docket no. 48.

JURISDICTION

Jurisdiction is conferred upon this United States Supreme Court pursuant to the

U.S.A. Constitution Article III @ 1 and 2; Rules of the Supreme Court of the United States, Rule 10.1(a)(b) and (c).

STATUTES, CODES, RULES, AND CONSTITUTIONAL PROVISIONS INVOLVED

United States of America Constitution, Article III, V, and XIV.

Rules of the Supreme Court of the United States, Rule 10.1(a)(b) and (c).

Federal Rules of Civil Procedure, Rule 12.

Federal Rules of Civil Procedure, Rule 55(a) and (b).

Equal Pay Act of 1963, Public Law 88-38.

Title 42 U.S.C. @ 1983.

Title VII, 42 U.S.C. @ 2000(e)(5)(f)(k)

T.C.A. 4-21-302.

STATEMENT OF THE CASE

This Petitioner was the original Plaintiff in an action complaining of a violation of my Civil Rights and

Constitutional Rights under Title VII of the Civil Rights Act of 1964, and 42 U.S.C. @ 2000e(5)(f)(k), the Equal Pay Act of 1963, Public Law 88-38, and 42 U.S.C. @ 1983 against the Defendants so named on the Cover page of this Petition.

I have been employed by the Shelby County Tennessee Government i.e. the Shelby County Tennessee Information Technology Department and all the other so named Defendants in the original action in the trial court, since the 16th day of March, 1993 and I remain in that said employment.

I worked to establish a consistent pattern of improving myself and to establish my qualifications for advancement. My record clearly indicated I was qualified to fill the position as Data Base Administrator. Yet, due to the inherently discriminatory system of the said Defendants, a white female, was hired and received the position of Data Base

Administrator at an annual salary of approximately $48,000.00. I applied for this said position, and was well qualified to perform it.

My classification is Data Processing Technician and my annual salary was $37,000.00. I work approximately 60 hours per week, including week-ends, to perform my job, while the white female works only 37.5 hours per week. The jobs have different titles, but the qualifications and work tasks performed are essentially identical. We are doing substantially equal work, but I am not receiving equal pay. The white female did not possess the same years of experience and seniority that I do.

I have suffered great and irreparable economic loss of wages, mental anguish, laceration of feelings, shame, degradation, and other aggravations of the said original wrong of discrimination against me by the

said Defendants.

In my original complaint I sought relief in the form of damages, of which I was entitled; actual, exemplary, equitable, punitive, and compensatory damages, and that the Trial Court enjoin the Defendants from continuing unlawful employment practices.

THE PROCEEDINGS BELOW

My original complaint was filed and executed into the Trial Court on the 15th day of July, 1994, and so docketed.

All copies of the complaint and summons were personally served and executed back into the Trial Court on the same date, the 15th day of July, 1994, and so docketed.

After 20 days had elasped, F.R.C.P. Rule 12, I filed for a Clerk's Entry of Default, which was timely and properly entered by the Court's Clerk and entered upon the Docket sheet of my case, pursuant to F.R.C.P. Rule 55(a).

Thereafter, I entered a F.R.C.P. Rule 55(b) motion for Default Judgment by the court and the said motion was set for hearing.

Approximately a week later, the Defendant's counsel filed a motion to set aside the default, I responed timely.

The United States District Court erred in dismissing the Default Judgment against all the Defendants herein.

The Defendants thereafter moved the Trial Court to dismiss my action as to Title VII 42 U.S.C. @ 2000(e), Title 42 U.S.C. @ 1983, and the Equal Pay Act.

I timely responded to Defendants' motion to dismiss with facts and law. A hearing was held and the District Court dismissed all my causes of action.

I appealed both of the Orders of the Trial Court to the Sixth Circuit.

The Sixth Circuit upheld all the

Decisions of the Trial Court except the Equal Pay Act, which was remanded.

REASONS FOR GRANTING WRIT

1. This Court should grant this Petition to resolve a conflict between the Circuit Courts, and a conflict arising under the Constitution and the laws of the United States, a clearly established congressional law.

The Sixth Circuit Court of Appeals is in conflict with the Fifth Circuit Court of Appeals, as the Fifth Circuit upheld a person's substantive rights to sue under Title VII in the Federal Courts as set forth in **Beverly v. Lone Star Lead Const Corp, 437 F2d, 1136-1142 (1971) (5th Cir.)**, and as the Sixth Circuit has disagreed with the Fifth Circuit pursuit to its decision in my case, see Order Appendix Ax. The Sixth Circuit should have remanded my case as the 5th Circuit did in **Beverly id, page 1142** and

remanded for a trial of appellant's claim on the merits.

2. This Court should grant this Petition to resolve a conflict between legislative law and the Constitution of the United States. Under 42 U.S.C. @ 2000e(5) and T.C.A. 4-21-302 only allows 180 days to file complaints under Title VII which is based upon the action of the 6th Circuit, the courts are now closed to me, thus violating the U.S. Constitution, Article V. Due Process law and Article XIV, Equal Protection of the laws, and this court clearly establised this right in **Wood v. Strickland**, 420 U.S. 308,327 (1975).

3. This Court should grant this Petition as Title 42 U.S.C. @ 1983 guarantees a person's rights to sue there under, if any person violates my Constitutional Rights, or Civil Rights.

The 6th Circuit has denied my right to

sue under Title 42 U.S.C. @ 1983 and has thus violated my substantive rights to Due Process of the law and Equal Protection of the law, U.S.C.A. @ Article V and XIV and under **Wood v. Strickland id.**

4. This court should grant this Petition to resolve a conflict between the Circuit Courts and the Federal Rules of Civil Procedure, Rule 12(a), Defaults.

F.R.C.P. Rule 12(a) sets forth a complaint must be answered in 20 days, in **Orange Theatre Corp. v. Rayherstz Amusement Corp. 130 F2d 185.187 (1942) (3rd Cir)**, states that if a defendant fails to plead, answer, or otherwise defend within the 20 days allotted under Rule 12(a), he/they are in default, **p.187 Orange id.** The 6th Circuit disagrees with the Rule(s) and are in conflict with the other Circuit Courts in this matter.

Therefore, the United States Supreme

Court should grant this Petition for a Writ of Certiorari to resolve a conflict between the Circuit Courts as claims, case, and substantive rights arises under the United States Constitution, and the Laws of the United States.

CONCLUSION

For the reasons set forth above, a Writ of Certiorari should be issued to review the Order of the 6th Circuit Court of Appeals, in this matter.

Date: January 16, 1996.

Respectfully Submitted,
Without Prejudice.

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